

110TH CONGRESS
2D SESSION

S. 2841

To amend the Oil Pollution Act of 1990 and title 46, United States Code, to establish a marine emergency protocol and requirements for double-hulling of vessel fuel tanks.

IN THE SENATE OF THE UNITED STATES

APRIL 10, 2008

Mrs. FEINSTEIN introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To amend the Oil Pollution Act of 1990 and title 46, United States Code, to establish a marine emergency protocol and requirements for double-hulling of vessel fuel tanks.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Marine Emergency
5 Protocol and Hull Requirement Act of 2008”.

6 **SEC. 2. RESPONSE STANDARDS.**

7 (a) IN GENERAL.—Subtitle B of title IV of the Oil
8 Pollution Act of 1990 (33 U.S.C. 1321 note; Public Law
9 101–380) is amended—

1 (1) by inserting before section 4201 the fol-
2 lowing:

3 **“PART I—REMOVAL AUTHORITY AND RESPONSE**
4 **SYSTEM”;**

5 and

6 (2) by adding at the end the following:

7 **“PART II—RESPONSE STANDARDS**

8 **“SEC. 4211. MARINE EMERGENCY PROTOCOL.**

9 “(a) DEFINITIONS.—In this section:

10 “(1) CONDITION OF ENHANCED DANGER.—The
11 term ‘condition of enhanced danger’ means—

12 “(A) a period beginning 24 hours before
13 and ending 72 hours after—

14 “(i) the commission of an act of terror
15 in the United States; or

16 “(ii) an attack on the United States
17 from a foreign or domestic enemy;

18 “(B) a period of dangerously low visibility
19 at sea or in port, as determined by the Sec-
20 retary of Homeland Security;

21 “(C) a period of not more than 72 hours
22 after—

23 “(i) an oil spill of more than 5,000
24 gallons; or

1 “(ii) the discharge of a hazardous ma-
 2 terial that poses a significant health or en-
 3 vironmental threat to the sector; or

4 “(D) any other period during which the
 5 Secretary of Homeland Security determines
 6 that a condition of enhanced danger exists.

7 “(2) HAZARDOUS MATERIAL.—The term ‘haz-
 8 ardous material’ has the meaning given the term in
 9 section 154.105 of title 33, Code of Federal Regula-
 10 tions (or a successor regulation).

11 “(3) HEALTH OR ENVIRONMENTAL THREAT.—
 12 The term ‘health or environmental threat’ has such
 13 meaning as shall be given the term by the Secretary.

14 “(4) SECTOR.—The term ‘sector’ means a
 15 shore-based operational unit of the Coast Guard.

16 “(5) SECTOR COMMANDER.—The term ‘Sector
 17 Commander’ means the commanding officer of a sec-
 18 tor.

19 “(b) EMERGENCY PROTOCOL.—

20 “(1) IN GENERAL.—During any condition of
 21 enhanced danger, the appropriate Sector Com-
 22 mander shall assume direct authority over all vessels
 23 within the area under the command of the Sector
 24 Commander to ensure the safe navigation of dan-
 25 gerous waterways.

1 “(2) **AUTHORITY.**—In carrying out paragraph
 2 (1), a Sector Commander shall have the authority,
 3 with respect to the sector under the command of the
 4 Sector Commander—

5 “(A) to order the immediate halt of all ves-
 6 sel traffic into and out of the sector;

7 “(B) to order the immediate halt of an in-
 8 dividual vessel;

9 “(C) to order a vessel in transit to change
 10 course, dock at a safe harbor, or return to port;
 11 and

12 “(D) to issue any other orders to ensure
 13 the health and safety of the individuals located
 14 in, and the environment of, the sector.

15 **“SEC. 4212. STATE AUTHORITY.**

16 “Nothing in this part limits or otherwise preempts
 17 any State from establishing a law (including a regulation)
 18 regarding any matter covered by this part that is more
 19 stringent than the authority provided by this part.”.

20 (b) **CONFORMING AMENDMENT.**—The table of con-
 21 tents of the Oil Pollution Act of 1990 (33 U.S.C. 2701
 22 note; Public Law 101–380) is amended—

23 (1) by inserting before the item relating to sec-
 24 tion 4201 the following:

 “PART I—REMOVAL AUTHORITY AND RESPONSE SYSTEM”;

25 and

1 (2) by adding at the end of the items relating
 2 to part I of subtitle B of title IV (as designated by
 3 this section) the following:

“Sec. 4211. Marine emergency protocol.

“Sec. 4212. State authority.”.

4 **SEC. 3. HULL REQUIREMENTS FOR FUEL TANKS OF CARGO**
 5 **VESSELS CARRYING OIL AS FUEL.**

6 Section 3703a of title 46, United States Code, is
 7 amended by adding at the end the following:

8 “(f) HULL REQUIREMENTS FOR FUEL TANKS OF
 9 CARGO VESSELS.—

10 “(1) DEFINITION OF CARGO VESSEL.—

11 “(A) IN GENERAL.—In this subsection, the
 12 term ‘cargo vessel’ means a cargo vessel (other
 13 than a tank vessel that is subject to subsections
 14 (a) through (e)) that carries a significant (as
 15 determined by the Secretary) quantity of oil or
 16 petroleum-based fuel, in a fuel tank on the ves-
 17 sel, to be used for the purpose of powering the
 18 cargo vessel.

19 “(B) EXCLUSIONS.—The term ‘cargo ves-
 20 sel’ does not include—

21 “(i) any naval vessel described in
 22 chapter 633 of title 10, United States
 23 Code;

1 “(ii) any other vessel under the juris-
2 diction or control of the Secretary of the
3 Navy; or

4 “(iii) any vessel described in sub-
5 section (b).

6 “(2) STANDARDS.—Subject to paragraphs (3)
7 through (5), a cargo vessel may not operate in the
8 navigable waters or the Exclusive Economic Zone of
9 the United States unless the fuel tanks of the cargo
10 vessel are equipped with a double hull, or with a
11 double containment system determined by the Sec-
12 retary to be as effective as a double hull, for the pre-
13 vention of a discharge of oil or petroleum-based fuel
14 from the fuel tanks.

15 “(3) APPLICABILITY.—Except as provided in
16 paragraph (5), paragraph (2) shall apply—

17 “(A) beginning on the date of enactment of
18 this subsection, with respect to—

19 “(i) a cargo vessel of less than 5,000
20 gross tons as measured under section
21 14502, or an alternate tonnage measured
22 under section 14302, as prescribed by the
23 Secretary under section 14104;

24 “(ii) a cargo vessel of less than 5,000
25 gross tons that had its appraised salvage

1 value determined by the Coast Guard be-
2 fore June 30, 2008, and that qualifies for
3 documentation as a wrecked cargo vessel
4 under section 12112; and

5 “(iii) any cargo vessel that is not de-
6 scribed in subparagraph (B) or (C);

7 “(B) in the case of a cargo vessel of at
8 least 5,000 gross tons but less than 15,000
9 gross tons as measured under section 14502, or
10 an alternate tonnage measured under section
11 14302, as prescribed by the Secretary under
12 section 14104—

13 “(i) after January 1, 2014, if the
14 cargo vessel is 40 years old or older and
15 has a single-hulled fuel tank, or is 45 years
16 old or older and has a double bottom or
17 double sides;

18 “(ii) after January 1, 2015, if the
19 cargo vessel is 39 years old or older and
20 has a single-hulled fuel tank, or is 44 years
21 old or older and has a double bottom or
22 double sides;

23 “(iii) after January 1, 2016, if the
24 cargo vessel is 38 years old or older and
25 has a single-hulled fuel tank, or is 43 years

1 old or older and has a double bottom or
2 double sides;

3 “(iv) after January 1, 2017, if the
4 cargo vessel is 37 years old or older and
5 has a single-hulled fuel tank, or is 42 years
6 old or older and has a double bottom or
7 double sides;

8 “(v) after January 1, 2018, if the
9 cargo vessel is 36 years old or older and
10 has a single-hulled fuel tank, or is 41 years
11 old or older and has a double bottom or
12 double sides;

13 “(vi) after January 1, 2019, if the
14 cargo vessel is 35 years old or older and
15 has a single-hulled fuel tank, or is 40 years
16 old or older and has a double bottom or
17 double sides; and

18 “(vii) after January 1, 2024, if the
19 cargo vessel is 25 years old or older and
20 has a single-hulled fuel tank, or is 30 years
21 old or older and has a double bottom or
22 double sides;

23 “(C) in the case of a cargo vessel of at
24 least 15,000 gross tons but less than 30,000
25 gross tons as measured under section 14502, or

1 an alternate tonnage measured under section
2 14302, as prescribed by the Secretary under
3 section 14104—

4 “(i) after January 1, 2014, if the
5 cargo vessel is 40 years old or older and
6 has a single-hulled fuel tank, or is 45 years
7 old or older and has a double bottom or
8 double sides;

9 “(ii) after January 1, 2015, if the
10 cargo vessel is 38 years old or older and
11 has a single-hulled fuel tank, or is 43 years
12 old or older and has a double bottom or
13 double sides;

14 “(iii) after January 1, 2016, if the
15 cargo vessel is 36 years old or older and
16 has a single-hulled fuel tank, or is 41 years
17 old or older and has a double bottom or
18 double sides;

19 “(iv) after January 1, 2017, if the
20 cargo vessel is 34 years old or older and
21 has a single-hulled fuel tank, or is 39 years
22 old or older and has a double bottom or
23 double sides;

24 “(v) after January 1, 2018, if the
25 cargo vessel is 32 years old or older and

1 has a single-hulled fuel tank, or 37 years
2 old or older and has a double bottom or
3 double sides;

4 “(vi) after January 1, 2019, if the
5 cargo vessel is 30 years old or older and
6 has a single-hulled fuel tank, or is 35 years
7 old or older and has a double bottom or
8 double sides;

9 “(vii) after January 1, 2020, if the
10 cargo vessel is 29 years old or older and
11 has a single-hulled fuel tank, or is 34 years
12 old or older and has a double bottom or
13 double sides;

14 “(viii) after January 1, 2021, if the
15 cargo vessel is 28 years old or older and
16 has a single-hulled fuel tank, or is 33 years
17 old or older and has a double bottom or
18 double sides;

19 “(ix) after January 1, 2022, if the
20 cargo vessel is 27 years old or older and
21 has a single-hulled fuel tank, or is 32 years
22 old or older and has a double bottom or
23 double sides;

24 “(x) after January 1, 2023, if the
25 cargo vessel is 26 years old or older and

1 has a single-hulled fuel tank, or is 31 years
2 old or older and has a double bottom or
3 double sides; and

4 “(xi) after January 1, 2024, if the
5 cargo vessel is 25 years old or older and
6 has a single-hulled fuel tank, or is 30 years
7 old or older and has a double bottom or
8 double sides; and

9 “(D) in the case of a cargo vessel of at
10 least 30,000 gross tons as measured under sec-
11 tion 14502, or an alternate tonnage measured
12 under section 14302, as prescribed by the Sec-
13 retary under section 14104—

14 “(i) after January 1, 2014, if the
15 cargo vessel is 28 years old or older and
16 has a single-hulled fuel tank, or 33 years
17 old or older and has a double bottom or
18 double sides;

19 “(ii) after January 1, 2015, if the
20 cargo vessel is 27 years old or older and
21 has a single-hulled fuel tank, or is 32 years
22 old or older and has a double bottom or
23 double sides;

24 “(iii) after January 1, 2016, if the
25 cargo vessel is 26 years old or older and

1 has a single-hulled fuel tank, or is 31 years
2 old or older and has a double bottom or
3 double sides;

4 “(iv) after January 1, 2017, if the
5 cargo vessel is 25 years old or older and
6 has a single-hulled fuel tank, or is 30 years
7 old or older and has a double bottom or
8 double sides;

9 “(v) after January 1, 2018, if the
10 cargo vessel is 24 years old or older and
11 has a single-hulled fuel tank, or 29 years
12 old or older and has a double bottom or
13 double sides; and

14 “(vi) after January 1, 2019, if the
15 cargo vessel is 23 years old or older and
16 has a single-hulled fuel tank, or is 28 years
17 old or older and has a double bottom or
18 double sides.

19 “(4) AGE OF CARGO VESSELS.—For the pur-
20 pose of this subsection, the age of a cargo vessel
21 shall be determined from the latest of the date on
22 which the cargo vessel—

23 “(A) is delivered after original construc-
24 tion;

1 “(B) is delivered after completion of a
2 major conversion; or

3 “(C) had its appraised salvage value deter-
4 mined by the Coast Guard and is qualified for
5 documentation as a wrecked cargo vessel under
6 section 12112.

7 “(5) NEW VESSELS.—A new cargo vessel that
8 is delivered during the period beginning on the date
9 of enactment of this section and ending on Decem-
10 ber 31, 2009, and that carries more than 600 cubic
11 meters of oil to be used as fuel for the cargo vessel
12 may not operate in the navigable waters or the Ex-
13 clusive Economic Zone of the United States unless
14 the cargo vessel—

15 “(A) is equipped with a double-hulled fuel
16 tank; and

17 “(B) otherwise meets the requirements de-
18 scribed in regulation 12A under annex I of the
19 Protocol of 1978 relating to the International
20 Convention for the Prevention of Pollution
21 From Ships, 1973, done at London on Feb-
22 ruary 17, 1978.”.

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